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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jan 05, 2022

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ALAN RAY McDOWELL,

Petitioner,

v.

STATE OF WASHINGTON,

Respondent.

NO: 2:21-CV-00332-RMP

ORDER DISMISSING HABEAS
CORPUS PETITION

On December 2, 2021, the Court directed Petitioner Alan Ray McDowell to show cause why his Petition for Writ of Habeas Corpus should not be dismissed. ECF No. 8 at 11. Specifically, Petitioner had failed to name a proper respondent, thus depriving the court of personal jurisdiction. *See Stanley v. Cal. Sup. Ct.*, 21 F.3d 359, 360 (9th Cir. 1994). Furthermore, Petitioner failed to demonstrate that he is “in custody” for purposes of federal habeas corpus relief. *See* 28 U.S.C. § 2254(a); *Maleng v. Cook*, 490 U.S. 488, 490–91 (1989).

Petitioner is proceeding *pro se* and has paid the \$5.00 filing fee to commence this action. Respondent has not been served. The Court cautioned Petitioner that the

failure to show cause would be construed as his consent to the dismissal of this action. ECF No. 8 at 11. Petitioner did not comply with the Court's directive and has filed nothing further in this action. Therefore, for the reasons set forth in the Order to Show Cause, ECF No. 8, **IT IS ORDERED** that the Petition, ECF No. 1, is **DISMISSED WITHOUT PREJUDICE** for lack of jurisdiction.

IT IS SO ORDERED. The District Court Clerk is **DIRECTED** to enter this Order, enter judgment, provide copies to Petitioner and **CLOSE** the file. The Court certifies that an appeal from this decision could not be taken in good faith and there is no basis upon which to issue a certificate of appealability. *See* 28 U.S.C. §§ 1915(a)(3), 2253(c); Fed. R. App. P. 22(b).

DATED January 5, 2022.

s/ Rosanna Malouf Peterson
ROSANNA MALOUF PETERSON
United States District Judge